

CLOSED, ECF, RELATED

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:05-cv-01984-PKC**

Novogen Research Pty. Ltd. v. NBTY, Inc.
Assigned to: Judge P. Kevin Castel
Related Case: 1:05-cv-01983-PKC
Cause: 35:271 Patent Infringement

Date Filed: 02/10/2005
Jury Demand: Both
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

Novogen Research Pty. Ltd.

represented by **Jason Aaron Lief**
McDermott, Will & Emery, LLP (NY)
340 Madison Avenue
New York, NY 10017
(212)547-5400 x 5822
Fax: (212)547-5444
Email: jlief@mwe.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

NBTY, Inc.

represented by **Jeremy N. Kudon**
Heller Ehrman LLP
7 Times Square
New York, NY 10036-4041
(212) 832-8300
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jeremy Neil Kudon
Heller Ehrman , LLP (NYC)
Times Square Tower
7 Times Square
New York, NY 10036-6524
(212)-847-8650
Fax: (212)-763-7600
Email: jkudon@hewm.com
LEAD ATTORNEY

Jonathan Ray Dowell
Heller Ehrman , LLP (NYC)
Times Square Tower
7 Times Square
New York, NY 10036-6524

(212) 847 -8697
 Fax: (212) 763-7600
 Email: jdowell@hewm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

M. Patricia Thayer
 Heller Ehrman, LLP (SF)
 333 Bush Street, Suite 3000
 San Francisco, CA 94104
 415 772 6794
 Fax: 415 772 6268
 Email:
 patricia.thayer@hellerehrman.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/10/2005	<u>1</u>	COMPLAINT against NBTY, Inc.. (Filing Fee \$ 250.00, Receipt Number 534141) Document filed by Novogen Research Pty. Ltd..(rdi,) Additional attachment(s) added on 2/15/2005 (tr,). (Entered: 02/11/2005)
02/10/2005		SUMMONS ISSUED as to NBTY, Inc.. (rdi,) (Entered: 02/11/2005)
02/10/2005		Case Designated ECF. (rdi,) (Entered: 02/11/2005)
02/10/2005		CASE REFERRED TO Judge P. Kevin Castel as possibly related to 1:05-cv-1983. (rdi,) (Entered: 02/11/2005)
02/10/2005		Mailed notice to Commissioner of Patents and Trademarks to report the filing of this action. (rdi,) (Entered: 02/11/2005)
02/10/2005	<u>2</u>	RULE 7.1 DISCLOSURE STATEMENT. Document filed by Novogen Research Pty. Ltd..(tr,) (Entered: 02/15/2005)
03/01/2005		CASE ACCEPTED AS RELATED TO 05cv1983. Notice of Assignment to follow. (jdo,) (Entered: 03/02/2005)
03/01/2005	<u>3</u>	NOTICE OF CASE ASSIGNMENT to Judge P. Kevin Castel. Judge Unassigned no longer assigned to the case. (jdo,) (Entered: 03/02/2005)
03/01/2005		Mailed notice to the attorney(s) of record. (jdo,) (Entered: 03/02/2005)
03/01/2005		Magistrate Judge HENRY B. PITMAN is so designated. (jdo,) (Entered: 03/02/2005)
03/08/2005	<u>4</u>	ORDER RE SCHEDULING AND INITIAL PRETRIAL CONFERENCE: Counsel for all parties are directed to appear before the undersigned for an initial pretrial conference, in accordance with Rule 16 of the Federal Rules of Civil Procedure on April 15, 2005 at 10:15 a.m. in Courtroom 12C at the United States Courthouse, 500 Pearl Street, New York, New York. COUNSEL FOR PLAINTIFF IS DIRECTED TO

		IMMEDIATELY SEND A COPY OF THIS NOTICE TO ALL PARTIES. Principal trial counsel must appear at this and all subsequent conferences. This case has been designated an electronic case and has been assigned to me for all purposes. By the date of the initial pretrial conference counsel for all parties are required to register as filing users in accordance with the Procedures for Electronic Case Filing. The parties are directed to submit a joint letter five business days prior to the conference addressing the following in separate paragraphs: (1) a brief description of the case, including the factual and legal bases for the claim(s) and defense(s); (2) any contemplated motions; and (3) the prospect for settlement. The parties are directed to consult the undersigned's Individual Practices and to confer on a Case Management Plan. See the Court's internet site: www.nysd.uscourts.gov/judges/USDJ/castel.htm . The jointly proposed Case Management Plan should be submitted in writing to the Court at the conference. Requests for adjournment of the conference will be considered only if made in writing and otherwise in accordance with the undersigned's Individual Practices. Initial Conference set for 4/15/2005 10:15 AM before P. Kevin Castel. (Signed by Judge P. Kevin Castel on 3/8/2005) (D'Agostino, Andrew) (Entered: 03/08/2005)
03/29/2005	<u>5</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. NBTY, Inc. served on 3/14/2005, answer due 4/4/2005. Service was accepted by Jennifer Mony. Document filed by Novogen Research Pty. Ltd.. (Lief, Jason) (Entered: 03/29/2005)
04/06/2005	<u>6</u>	STIPULATION AND ORDER Extending time to respond to complaint (Signed by Judge P. Kevin Castel on 4/6/2005) (D'Agostino, Andrew) (Entered: 04/06/2005)
04/06/2005		Set Answer Due Date purs. to <u>6</u> Stipulation and Order as to NBTY, Inc. answer due on 5/16/2005. (D'Agostino, Andrew) (Entered: 04/06/2005)
04/25/2005	<u>9</u>	MOTION for M. Patricia Thayer to Appear Pro Hac Vice. Annexed affidavit of Jonathan R. Dowell. Document filed by NBTY, Inc. (kw,) Modified on 4/28/2005 (kw,). (Entered: 04/28/2005)
04/25/2005	<u>10</u>	MOTION for Jonathan R. Dowell to Appear Pro Hac Vice. Annexed affirmation of Jeremy N. Kudon, Esq. is attached. Document filed by NBTY, Inc. (kw,) (Entered: 04/28/2005)
04/26/2005	<u>7</u>	ORDER ADMITTING ATTORNEY PRO HAC VICE. Attorney M. Patricia Thayer for NBTY, Inc. is admitted to practice Pro Hac Vice as counsel in the matter, subject to payment of fee (Signed by Judge P. Kevin Castel on 4/25/05) (yv,) Modified on 4/26/2005 (yv,). (Entered: 04/26/2005)
04/26/2005		Transmission to Attorney Admissions Clerk. Transmitted re: <u>7</u> Order Admitting Attorney Pro Hac Vice, to the Attorney Admissions Clerk for updating of Attorney Information. (yv,) (Entered: 04/26/2005)
04/26/2005	<u>8</u>	ORDER ADMITTING ATTORNEY PRO HAC VICE. Attorney Jonathan R. Dowell for NBTY, Inc. admitted to practice Pro Hac Vice as

		counsel in the matter, subject to payment of fee (Signed by Judge P. Kevin Castel on 4/25/05) (yv,) (Entered: 04/26/2005)
04/26/2005		Transmission to Attorney Admissions Clerk. Transmitted re: <u>8</u> Order Admitting Attorney Pro Hac Vice, to the Attorney Admissions Clerk for updating of Attorney Information. (yv,) (Entered: 04/26/2005)
05/16/2005	<u>11</u>	RULE 7.1 DISCLOSURE STATEMENT. Document filed by NBTY, Inc..(Kudon, Jeremy) (Entered: 05/16/2005)
05/16/2005	<u>12</u>	ANSWER to Complaint with JURY DEMAND. Document filed by NBTY, Inc..(Kudon, Jeremy) (Entered: 05/16/2005)
05/24/2005	<u>13</u>	ENDORSED LETTER addressed to Judge Castel from Jonathan R. Dowell dated 5/25/2005 re: Requesting leave to appear in place of Ms. Thayer. Application granted. (Signed by Judge P. Kevin Castel on 5/24/2005) (D'Agostino, Andrew) (Entered: 05/24/2005)
05/26/2005		CASHIERS OFFICE REMARK on <u>7</u> Order Admitting Attorney Pro Hac Vice, in the amount of \$50.00, paid on 5/16/05, Receipt Number 544047. (gm,) (Entered: 05/26/2005)
05/26/2005	<u>14</u>	CASE MANAGEMENT PLAN: All parties do not consent to trial by Magistrate Judge. This case is to be tried to a jury. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Any motion to amend or to join additional parties shall be filed within 30 days from the date of this Order. Initial disclosures will be completed no later than 21 days from the date of this order. All fact discovery is to be completed by 12/5/2005. Initial requests for production of documents to be served by 6/30/2005. Interrogatories to be served by 6/30/2005 and parties may serve contention interrogatories on (a) infringement and (b) validity. Depositions to be completed by 12/5/2005. Expert depositions to be completed 30 days after exchange of rebuttal expert reports. Requests to admit to be served no later than 10/21/2005. A Markman hearing will be scheduled for March 2006. All counsel must meet face-to-face for at least one hour to discuss settlement within fourteen (14) days following the close of fact discovery. All expert discovery shall be completed thirty days after the exchange of rebuttal expert reports. The submission date of the joint pre-trial order and trial papers is thirty days following the close of fact and expert discovery. The parties estimate the length of trial is five days. Principals to meet for settlement discussion prior to September 16, 2005. All discovery of plaintiff should be coordinated with the discovery in the related case 05 Civ. 1983. All Markman briefing and the hearing should be coordinated with 05 Civ. 1983. Amended Pleadings due by 6/27/2005. Discovery due by 12/5/2005. Case Management Conference set for 9/30/2005 02:15 PM before P. Kevin Castel. (Signed by Judge P. Kevin Castel on 5/26/2005) (D'Agostino, Andrew) (Entered: 05/26/2005)
05/26/2005		Minute Entry for proceedings held before Judge P. Kevin Castel : Initial Pretrial Conference held on 5/26/2005. (D'Agostino, Andrew) (Entered: 05/27/2005)

09/30/2005		Minute Entry for proceedings held before Judge P. Kevin Castel : Interim Pretrial Conference held on 9/30/2005. The Court schedules another pretrial conference for 12/19/2005 11:00 AM before Judge P. Kevin Castel. (D'Agostino, Andrew) (Entered: 09/30/2005)
12/16/2005	<u>15</u>	ENDORSED LETTER addressed to Judge P. Kevin Castel from M. Patricia Thayer dated 12/16/05 re: In contemplation of settlement, all deadline are extended by seven days. The 12/19/05 conference is adjourned to 1/13/06 at 12:15 p.m. (Signed by Judge P. Kevin Castel on 12/16/05) (db,) (Entered: 12/19/2005)
12/16/2005		Set/Reset Hearings: Pretrial Conference set for 1/13/2006 12:15 PM before Judge P. Kevin Castel. (db,) (Entered: 12/19/2005)
01/06/2006	<u>16</u>	STIPULATION OF DISMISSAL; pursuant to Rule 41(a)(1), to the dismissal of all claims with prejudice. Each party shall bear its own attorneys' fees and costs. (Signed by Judge P. Kevin Castel on 1/6/06) (sac,) (Entered: 01/09/2006)

PACER Service Center			
Transaction Receipt			
03/23/2006 12:21:49			
PACER Login:	fh0018	Client Code:	07579-0005-05000
Description:	Docket Report	Search Criteria:	1:05-cv-01984-PKC
Billable Pages:	3	Cost:	0.24